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*Spectrum  
Incentive  
Auctions*

June 26, 2015

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, Southwest  
Washington, D.C. 20554

Dear Chairman Wheeler:

We write to address rules governing spectrum auctions, in particular small business participation and set-asides. The success of the recent AWS-3 auction was generally encouraging and we look forward to the upcoming incentive auction. Spectrum policy has never been more scrutinized as society trends toward heavier reliance on wireless devices. As a result, we submit the following:

First, spectrum is a vital and scarce resource, and we believe the best way to allocate spectrum is through free market principles. As a general rule, that means the FCC should not impose restrictions on who can bid on spectrum. Unnecessary regulations will only prevent consumers from realizing the full benefits that wireless connectivity can bring.

Second, we strongly oppose any rule changes that would depress participation in the upcoming incentive auction for 600 MHz broadcast TV spectrum. The Commission's existing rules will set-aside, or reserve, up to 30 MHz of spectrum in a market for certain participants. Some lawmakers and potential auction participants are nevertheless lobbying your agency for even greater set-asides – executive agencies have even weighed in. We see no reason to further restrict access to low frequency spectrum and reduce broadcaster incentives to relinquish their spectrum holdings by artificially reducing demand. Doing so will undermine congressional intent, reduce the amount of spectrum voluntarily cleared, reduce the net proceeds of the auction, and harm the public interest.

Third, the Designated Entity program needs further reform. We are aware of discussion about certain entities not operating within the spirit of the rules during the AWS-3 auction. Commissioner Pai even testified before the House in May that “small business discounts are now being used to give billions of dollars in taxpayer funded subsidies to Fortune 500 companies and to make it harder for legitimate small businesses to compete in the wireless market.”

Abuse of the Designated Entity program is unacceptable, and the FCC must carefully enforce its rules to ensure that multi-billion dollar corporations are not effectively receiving subsidies that are intended for small businesses. The Commission must be especially vigilant whenever anyone games the system through the coordinated activities of numerous Designated Entity applicants. And the Commission should not condone the use of corporate gimmickry to shield majority owners of Designated Entity participants from scrutiny.

In reforming the Designated Entity program, the Commission should be guided by a simple principle: A small business program must serve small business and not become a forum for corporate welfare. But real small businesses who are building mobile broadband to serve their communities do not have deep pockets, and placing too high a cap on bidding credits is only likely to encourage speculators and others more interested in profiting from this government program rather than deploying new broadband infrastructure and creating real competition.

Finally, to reiterate, we believe that the free market is the best means of promoting the public interest. Restricting free and open access to spectrum creates barriers to capital investment, innovation, deployment and puts the government in the position of picking winners and losers. As you move forward, we encourage you to carefully deliberate any rule changes. Thank you for your consideration of our views on these matters.

Sincerely,



Marsha Blackburn  
Member of Congress



Robert E. Latta  
Member of Congress





OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

July 27, 2015

The Honorable Marsha Blackburn  
U.S. House of Representatives  
217 Cannon House Office Building  
Washington, D.C. 20515

Dear Congresswoman Blackburn:

Thank you for your letter regarding the Commission's rules governing spectrum auctions, including small business participation and the market-based spectrum reserve. I appreciate your support for our efforts to ensure that *bona fide* small businesses and eligible rural service providers have the opportunity to participate in our spectrum auctions and in the provision of spectrum-based services.

To that end, the Commission recently adopted a Report & Order updating our competitive bidding rules to reflect the dramatic changes in the wireless marketplace since they were last updated in 2006. In 2006, the top four national carriers served 82 percent of the market; today the share of the top four national carriers has increased to 98 percent. Given your interest in rural communications matters, you may be pleased to know that the Commission adopted a new bidding credit available to rural service providers who might not qualify as a small business. This new credit, which had wide support in the record, affords rural providers with additional incentives to win licenses and offer wireless broadband services in the rural communities they currently serve. This credit will allow eligible providers a discount of up to 15%, with a cap of \$10 million.

The Report & Order also enhances the integrity of the FCC auction process by adopting reforms to ensure that only *bona fide* small businesses and eligible rural service providers benefit from bidding credits. For example, the Report & Order establishes the first-ever cap on the total amount of bidding credits any one auction participant can utilize, minimizing an incentive for major corporations to try to take advantage of the program. The amount of the cap will be established on an auction-by-auction basis, depending on the capital requirements of a particular service. For the upcoming Incentive Auction, the Report & Order establishes a \$150 million cap for bigger markets and a \$10 million cap in smaller markets. For future auctions, the cap will be established by the Commission, with a floor of \$25 million in larger markets and \$10 million in smaller markets.

The new rules also limit the amount of spectrum that a small business or rural service provider may lease to its disclosable, non-controlling investors during the five-year unjust enrichment period. Further, the revised rules clarify that joint bidding agreements involving a shared strategy for bidding at auction between designated entities (including small businesses

and rural service providers) and nationwide service providers will not be permitted. Simply put, we will not allow small businesses to serve as a stalking horse for another party.

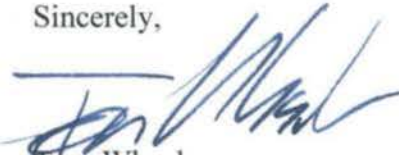
Ultimately, the reforms adopted in the Report & Order will increase the economic opportunity for small and rural businesses, as well as ensure that the beneficiaries of our competitive bidding rules are those intended by Congress.

One of our priorities for the Incentive Auction is to ensure that competitive providers have a meaningful opportunity to access low-band spectrum. This is particularly important in rural areas, where low-band spectrum is necessary if competitors are to fill in their coverage gaps, and in urban areas, where low-band spectrum allows more reliable in-building coverage. Facilitating access to low-band spectrum by multiple providers is important to preserve and promote competition in the mobile wireless marketplace, which brings consumers more choices, lower prices, and higher quality services.

For these reasons, the Commission has established a groundbreaking market-based spectrum reserve for competitors in every market nationwide. The market-based spectrum reserve for the incentive auction will provide an opportunity for mobile wireless providers that lack significant amounts of low-band spectrum in a particular market to acquire such spectrum. The market-based reserve is designed to promote competition as well as ensure that all bidders bear a fair share of the value of the spectrum for the public and the costs of broadcaster relocation. I share your goal that the Incentive Auction should help ensure that consumers will benefit directly from increased competition in all parts of the country – rural, suburban and urban areas included. Toward that end, I believe we struck the right balance when we set this first-ever reserve at up to 30 MHz.

Thank you for your ongoing support of our efforts to promote competition and choice in mobile broadband.

Sincerely,



Tom Wheeler





FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

July 27, 2015

The Honorable Bob Latta  
U.S. House of Representatives  
2448 Rayburn House Office Building  
Washington, D.C. 20515

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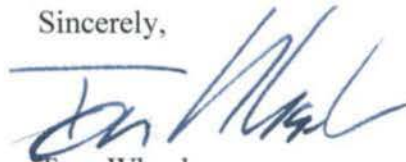
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Sincerely,



Tom Wheeler